

Rules and Regulations

Federal Register

Vol. 60, No. 164

Thursday, August 24, 1995

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1004

[DA-95-24]

Milk in the Middle Atlantic Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This document suspends certain pooling provisions of the Middle Atlantic Federal milk marketing order for the months of September 1995 through February 1996, or until such prior time that the rulemaking proceeding to correct the market's pooling problems is concluded. The suspension reduces the percentage of receipts that must be disposed of as Class I disposition by pool distributing plants, provides automatic pool plant status for supply plants and reserve processing plants that were pool plants during the preceding months of September through February, and removes the limits on the amount of milk that may be diverted to nonpool plants by cooperative associations and pool plant operators. The suspension was requested by several Middle Atlantic cooperatives and handlers. The action is necessary to assure that producer milk historically associated with the market will continue to be pooled and priced under the order without incurring unnecessary and uneconomic movements solely for the purpose of maintaining pool status.

EFFECTIVE DATE: September 1, 1995, through February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Gino M. Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South

Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1366.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued February 25, 1994; published March 4, 1994 (59 FR 10326).

Recommended Decision: Issued July 10, 1995; published July 14, 1995 (60 FR 36239).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Middle Atlantic marketing area.

It is hereby found and determined that for the months of September 1, 1995, through February 29, 1996, the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1004.7(a), the words "40 percent in the months of September through February, and" and the words "in the months of March through August,".

2. In § 1004.7(e), the word "immediately" and the words "for each of the following months of March through August,".

3. In the introductory text of § 1004.12(d), the words "in accordance with the conditions of paragraphs (d)(1) and (d)(2) of this section".

4. In § 1004.12, paragraphs (d)(1) and (d)(2).

Statement of Consideration

This suspension reduces the total Class I disposition standard for pool distributing plants, provides automatic pool plant status for supply plants and reserve processing plants that were pool plants during each of the preceding months of September through February, and removes the limits on the amount of milk that may be diverted to nonpool plants by cooperative associations and pool plant operators. The provisions will be suspended starting with the month of September 1995 and continuing through February 1996 or until such earlier time as the hearing proceeding (DA-93-30) which addresses these issues is completed.

The first provision suspended reduces the percentage of a distributing plant's receipts that must be disposed of as Class I milk to qualify the plant as a pool plant. With the suspension, a pool distributing plant must use at least 30 percent, rather than 40 percent, of its monthly milk receipts as Class I milk during September 1995 through February 1996.

The second provision suspended permits supply plants and reserve processing plants that were pool plants during the months of September 1994 through February 1995 to retain pool status for the months of September 1995 through August 1996. The shipping

requirements that normally would have applied to such plants during the months of September 1995 through February 1996 are eliminated by the suspension action.

The third provision included in the suspension removes the limits on the amount of milk that may be diverted to nonpool plants by a cooperative association or a pool plant operator for the period of September 1995 through February 1996.

The suspension was requested by Pennmarva Dairymen's Federation, Inc., Atlantic Processing, Inc., Dairylea, Inc., Milk Marketing, Inc., and Lehigh Valley Dairies. Together these organizations represent over 90 percent of the market's producer milk.

As proponents contended in their request, there is ample evidence to support this suspension action on the basis of the record of the May 3, 1994, hearing proceeding (DA-93-30) for the Middle Atlantic market. On July 10, 1995, a recommended decision in that proceeding, which dealt with the same pooling issues involved in this suspension, was issued and published on July 14, 1995, (60 F.R. 36239). The recommended changes would reduce the pooling standards for distributing plants and reserve processing plants and allow cooperatives and pool plant operators to divert more milk to nonpool plants. These changes were recommended primarily because the market's Class I use of producer milk has declined during the past several years.

Proponents stated that the market's supply/demand balance has deteriorated further since the hearing. In April 1995 only 37 percent of the market's producer milk was used in Class I compared with 41 percent in April last year, they indicated.

Since the amendatory relief resulting from the May 1994 hearing cannot be effective by September 1, 1995, when more stringent pooling standards take effect, it is necessary to suspend the aforementioned pooling provisions. The suspension will begin on September 1, 1995, and continue through February 29, 1996 or until such earlier time as the rulemaking proceeding (AO-160-A71; DA-93-30) may adopt proposed changes to the order.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon and thirty days' notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and

to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk; and

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1004

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions in Title 7, Part 1004 are amended as follows effective September 1, 1995 through February 29, 1996:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. The authority citation for 7 CFR Part 1004 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§ 1004.7 [Suspended in part]

2. In § 1004.7(a) introductory text, the words "40 percent in the months of September through February, and" and the words "in the months of March through August," are suspended.

3. In § 1004.7(e) introductory text, the word "immediately" and the words "for each of the following months of March through August," are suspended.

§ 1004.12 [Suspended in part]

4. In the introductory text of § 1004.12(d), the words "in accordance with the conditions of paragraphs (d)(1) and (d)(2) of this section" are suspended.

5. In § 1004.12, paragraphs (d)(1) and (d)(2) are suspended.

Dated: August 17, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95-20967 Filed 8-23-95; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 242 and 299

[INS No. 1672-94; AG Order No. 1984-95]

RIN 1115-AD76

Administrative Deportation Procedures for Aliens Convicted of Aggravated Felonies Who Are Not Lawful Permanent Residents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule establishes administrative deportation procedures for aliens not admitted for permanent residence and not statutorily eligible for any relief from deportation who have been convicted of aggravated felonies. This regulation is being promulgated to implement the statutory measure eliminating the requirement for a hearing before an Immigration Judge and limiting judicial review. While incorporating procedural safeguards, it will expedite the deportation process in certain cases involving aliens who have committed serious criminal offenses.

EFFECTIVE DATE: This rule is effective September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Leonard C. Loveless, Detention and Deportation Officer, Immigration and Naturalization Service, 425 Street, NW., Washington, D.C. 20536, Telephone (202) 514-2865.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service ("the Service") published a proposed rule on March 30, 1995, at 60 FR 16386. This final rule, which incorporates changes based on the comments received on the proposed rule, establishes an expedited administrative deportation procedure for aliens who have committed aggravated felonies and who are not lawful permanent residents. Congress authorized such a procedure in section 130004 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, which amended section 242A of the Immigration and Nationality Act ("the Act"), effective September 14, 1994. (The Immigration and Nationality Technical Corrections Act of 1994, Public Law 103-416, enacted October 25, 1994, made minor technical changes to section 242A.) Section 242A(b)(4) of the Act authorizes the Attorney General to implement an expedited deportation procedure that eliminates hearings before Immigration Judges for certain aliens convicted of serious criminal